

Responses to Comments from

Heal the Bay

For

Tentative Time Schedule Order (TSO) for City of San Buenaventura (City) – Ventura Water Reclamation Facility (Facility)

Heal the Bay's Comments Received on November 27, 2006		
Item No.	Comment	Response to Comment
1	Heal the Bay has significant concerns that the proposed TSO allows yet another excessive length of time for the City of San Buenaventura ("Permittee") to achieve compliance with final effluent limitations that it has been subject to, and in violation of, for many years. As outlined in Cleanup and Abatement Order No. R4-2006-0012 ("CAO"), the Ventura Water Reclamation Facility has chronically exceeded both permit limits and monitoring and reporting requirements, totaling at least 255 effluent limit violations under Order Nos. 00-143, R4-2003-0059, and R4-2004-0095. At this juncture, the Permittee has had sufficient time to obtain compliance with permit limits. In fact, the Regional Board has already extended the compliance deadline three times since 2000 (see Order Nos. 00-144, 02-0195, 03-0059). Sequential compliance schedule exceedances are a chronic problem throughout the State and are one of the strongest arguments being considered by the State Board in their efforts to potentially modify statewide compliance schedule policy. The most recent Time Schedule Order, TSO No. R4-2006-0034 adopted in March 2006, gave the Permittee until December 31, 2006 to meet final effluent limitations. At the adoption hearing and in written comments, Heal the Bay noted that the continuous cycle of TSOs with interim limits was inappropriate. However in the proposed TSO, the Regional Board provides yet another extension. When will the Permittee finally be held accountable for complying with a TSO and meeting final effluent limits? With this precedent, how will any permittee take a TSO seriously? Given the Permittee's record of non-compliance and ineffectiveness during previous efforts to achieve full compliance, the Regional Board should require the Permittee to meet <i>final</i> effluent limits immediately	Forty one of 255 effluent limit violations recorded between February 2000 and July 2005 were for copper, nickel, and zinc violations, which occurred before improvements were made to reduce the copper, nickel, and zinc concentrations. Most of the other effluent limit violations were for coliform and turbidity. In response to these violations, Cleanup and Abatement Order No. R4-2006-0012 was issued by the Executive Officer on February 7, 2006. Based upon the performance of the Facility, the TSO No. R4-2006-0034 adopted on March 9, 2006 provided more stringent interim limits for copper, nickel, and zinc (see Finding No. 4.F.a. on Page 9 of the tentative TSO), which are much more stringent than the interim limits for copper, nickel, and zinc specified in TSO No. R4-2004-0095 (see Finding No. 4.E.c. on Page 5 of the tentative TSO). The TSOs required the City to conduct site-specific studies including a <i>Metal Translator Study</i>, <i>Salinity Profile Study</i>, <i>Resident Species Study</i>, and <i>Updated Enhancement Study</i>, which the Discharger had completed in a timely manner. Based on the current performance of the Facility, the tentative TSO not only provides more stringent interim limits (see Section 1 on Page 11 of the tentative TSO) but also reduces the number of constituents with interim limits from three (copper, nickel and zinc specified in TSO No. R4-2006-0034) to two (copper and nickel). To date the City has invested \$29.5 million for Upgrades to the Facility and for New Influent Headworks Projects (Phase I). The Capacity Upgrades (Phase II) projected budget is currently \$22 million. Phase II, which is expected to be

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		completed in 2009, constructs an additional secondary treatment plant capacity up to 4 MGD in order to accommodate current and future flow to the Facility. These projects demonstrate the City's commitment to improve the existing unit processes and the facility performance. Regional Board staff recognize the diligent efforts made by the City in improving the effluent quality. Staff believe that this TSO is warranted. In addition, the TSO provides Regional Board staff time to draft the tentative NPDES permit for the Board's consideration in Spring 2007. Action: No change is necessary.
2	The TSO briefly discusses the Regional Board's plan to renew the Permittee's NPDES permit in the upcoming months. Further, the TSO indicates that the Regional Board will likely allow continued discharge to the Santa Clara River Estuary ("Estuary") along with increased water reclamation requirements. While Heal the Bay strongly supports increased water reclamation, we adamantly oppose any remaining discharge to the Estuary. As articulated in detail in Heal the Bay's May 31, 2006 letter to the Regional Board that is attached to these comments, we have significant concerns that the discharge from the Ventura Water Reclamation Facility ("VWRF") is actually degrading water quality and habitat in the Estuary. The VWRF has discharged to the Santa Clara River Estuary for approximately forty-five years. This discharge is in direct conflict with the State Water Quality Control Board's <i>Water Quality Control Policy for the Enclosed Bays and Estuaries of California</i> ("EBE Policy"), passed in 1974, which mandates that wastewater discharges to estuaries be phased out as soon as practicable. SWRCB Resolution No. 74-43. There are no other direct discharges of POTW effluent to an estuary in the region, nor have there been for decades. According to the EBE Policy, exceptions may be granted <i>only</i> in the rare circumstance where a regional board finds that the discharge enhances the estuary: a burden of proof that has never been met by the discharger. However, an exception to the EBE Policy in this case is inappropriate. The constant influx of freshwater discharge throughout the year to the Estuary over several decades has likely	Regional Board staff met with the City, Resource Agencies and other Interested Parties to review and discuss the Updated Enhancement Study and the City's conclusions (meetings held at the Ventura WRF on March 27, 2006 and June 12, 2006). The concerns were raised with respect to both continuing and eliminating wastewater discharge to the Estuary. As mentioned in the tentative TSO (see Page 8), there are "Pros" and "Cons", addressed by the City, Resource Agencies and other Interested Parties, on effluent discharge reduction. Immediate elimination of the discharge may have adverse and irreversible impacts on the ecosystem and hydrology of the Estuary, and endangered species. However, it is Regional Board's intension that staff endeavor to renew the NPDES permit in the Spring 2007. This renewal will propose to lift the requirement of maintenance flows to the Estuary so that reclamation can be increased and discharges to the Estuary incrementally decreased, but monitoring closely. The Discharger will be required to annually submit the reduced flow study through a 10-year period, which will be used to evaluate the minimal flow able to sustain the healthy ecosystem and hydrology of the Estuary, or if ultimately, a discharge prohibition is warranted. While the results from the Study are generally inconclusive, many Pros and Cons were discussed at the Stakeholder meetings which directed Regional Board staff to move cautiously forward in reducing or

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	modified its natural hydrology, lowered salinity levels and decreased water quality, thereby altering habitat and species composition. For instance, the Permittee's own monitoring data show that the VWRP is a major source of nutrients to the Estuary (A detailed analysis of the impacts is included in our attached May 31, 2006 letter.) Given this, it is hard to believe the supposition that the VWRP is enhancing the Estuary. Thus, the Regional Board should not continue to permit this discharge to the Estuary, and alternatives should be explored in more depth. In addition, the Regional Board should remove language from the TSO that alludes to the discharge actually enhancing the Estuary such as Finding 6 on Page 10.	eliminating flow to the Estuary. As the commentor is aware, even if the Regional Board immediately prohibits flow from the Facility into the Estuary, time will have to be afforded the Discharger to plan and develops the options of how to eliminate the wastewater discharge to the Estuary. Therefore, some type of compliance vehicle, such as a TSO, will have to be issued. Action: No change is necessary.
3	Appropriately, Regional Board staff uses CTR saltwater criteria to develop effluent limits. TSO at 11. The Santa Clara River Estuary is a saline environment, so the more protective saltwater criteria should be employed. As stated in Order No. 00-143, "In order to protect the beneficial uses, the limits for both fresh and salt water were compared, and the more stringent of the two was used to set each effluent limit within this permit. In this manner, the Regional Board is protecting the most sensitive environmental beneficial use." (Order No. 00-143 at 3). In line with this assessment, the more stringent saltwater criteria should be maintained in order to meet water quality standards and protect the estuarine environment.	For the upcoming NPDES permit renewal in the Spring 2007, it is Regional Board staff's intent to use the most stringent saltwater criteria to calculation the final effluent limits for metals. However, in this proposed TSO, the interim limits based on current effluent data and derived statistically at 95 and 99 percentile using the Minitab program for monthly average and daily maximum, respectively. Please be aware of that monthly average after installation of improvements at the Facility between February 2006 to August 2006 for copper (<6µg/L) and nickel (<10µg/L) were all non-detected. The City did put their effort on improving treatment performance. Action: No change of interim limits in the TSO.
4	The TSO describes "effluent discharge reduction" as a possible alternative to the current discharge. TSO at 8. Further, it suggests that under this alternative the discharge would be reduced from the current 10 MGD to 5.6 MGD. Why is 5.6 MGD the "magic number"? It is our understanding that the 1976 Enhancement Study could not be found, so there is no evidence available to suggest that a 5.6 MGD discharge would enhance the Estuary. Again, the discharger is in violation of the EBE Policy and needs to comply as soon as feasible by discharging outside of the Santa Clara River Estuary.	As outlined in the tentative TSO (see Page 8), there are always "Pros" and "Cons" on effluent discharge reduction. In general, Regional Board staff have determined that the Study is inconclusive in determining whether the Facility should continuously discharge the treated wastewater into the Estuary. However, any decision could result in negative impacts on the ecosystem and hydrology of the Estuary, and endangered species (Tidewater Goby). Because the Study is largely inconclusive, Regional Board staff will pursue a different avenue of attacking the issues. When the tentative NPDES will be considered by the Regional Board in Spring 2007, Regional Board staff intend to draft requirements to slowly ratchet down the volume of discharge allowed into the

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		Estuary, while requiring extensive monitoring to ensure that there are no detrimental impacts as a result of the decrease in volume. The ultimate goal will be a prohibition to discharge, an increase in water recycling, and if necessary, a determination if there should be some type of seasonal sustenance flow required to protect endangered species. 5.6 MGD first appeared in 1988 renewal NPDES permit. This number was the average flow prior to 1988. during the renewal process in 1988. Regional Board staff evaluated 5.6 MGD, which was considered to be essential to maintain habitat for wildlife and the hydrology of the Estuary. Action: No change is necessary.
5	The TSO states that "[t]he ability of the City to be in compliance with the copper limits is not significantly improved by the addition of a site-specific translator when applying the saltwater water quality criteria." TSO at 3. Does the site-specific translator make the criterion more stringent? Site-specific translators, SSOs, and WERs should not be viewed by the Regional Board as studies to be automatically pursued whenever a standard is not met.	The Section 1.4.1 and Section 5.2 of the <i>Policy for Implementation of Toxics Standards for Inland Surface Waters, Enclosed Bays, and Estuaries of California</i> allows the Discharger to conduct Site-Specific Translators and Site-Specific Objectives (including WERs). The result of the Site-Specific Study did not make the criterion more stringent. For the upcoming NPDES permit renewal in the Spring 2007, it is Regional Board staff's intent to use the most stringent saltwater criteria to calculation the final effluent limits for metals. Action: No change is necessary.
6	The TSO outlines tasks for the Permittee to complete in the upcoming year. One of these tasks is to "change existing City Council reclamation Policies." TSO at 12. Is this something the Regional Board can direct a City Council to do?	The Regional Board cannot direct the City Council to change existing City Council Reclamation Policies. The City of San Buenaventura has to determine their own Reclamation Policies. But the task is listed in the TSO, because it is one of the key factors for the City to be able to recycle as mush water as possible. Action: No change is necessary.